

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

CHAMBERS OF  
J. FREDERICK MOTZ  
UNITED STATES DISTRICT JUDGE

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November 12, 2014

MEMO TO COUNSEL RE: Westport Property Investments, LLC v.  
Patrick Turner, et al.  
Civil No. JFM-14-557

Dear Counsel:

I have reviewed the memoranda submitted in connection with defendants' motion to dismiss for failure to state a claim and plaintiff's motions for summary judgment.

All the motions (document 8, 10, and 11) are denied. I am somewhat concerned that if, as plaintiff asserts, clauses such as the one involved here are ordinarily enforceable against guarantors, my ruling may conflict with industry practice. However, I am not persuaded that cooperation with a creditor after a bankruptcy has been filed is the equivalent of "consent" and "acquiescence" to the filing of the bankruptcy. At the same time I am not persuaded that the terms "consent" and "acquiescence" require, as defendants assert, that the guarantors "cause or assist someone else in filing a bankruptcy petition." It may be that "acquiescence" can be inferred from cooperation by a debtor in the bankruptcy proceeding preceded by a notice that the bankruptcy proceeding would be filed.

A conference call will be held on November 19, 2014 at 4:45 p.m. to discuss the appropriate schedule in this case. I ask counsel for plaintiff to initiate the call.

Enclosed is a tentative scheduling order with approximate dates for your information. Please consult with one another before the call and be prepared to discuss whether you would like to participate in a settlement conference either before or after the completion of discovery, any changes to the dates in the form scheduling order, and whether there is unanimous consent to proceed before a U.S. Magistrate Judge for all proceedings.

Also enclosed is a letter regarding a call-in hour program for the resolution of discovery disagreements.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,

/s/

J. Frederick Motz  
United States District Judge